

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MARK N. BEGLEY,)	CIVIL 16-00350 LEK-KJM
)	
Plaintiff,)	
)	
vs.)	
)	
COUNTY OF KAUAI, KAUAI POLICE)	
DEPARTMENT, DARRYL PERRY, ROY)	
ASHER, MICHAEL CONTRADES AND)	
DOE DEFENDANTS 16-100,)	
)	
Defendants.)	
_____)	

**ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION
REGARDING ORDER DENYING DEFENDANT MICHAEL CONTRADES'
MOTION TO DISMISS PLAINTIFF'S THIRD AMENDED
COMPLAINT FILED HEREIN ON AUGUST 31, 2018**

On September 14, 2018, Defendant Michael Contrades, in his individual capacity ("Contrades"), filed his Motion to Dismiss Plaintiff's Third Amended Complaint Filed Herein on August 31, 2018 ("Motion to Dismiss"). [Dkt. no. 360.] On December 27, 2018, this Court issued an order that, *inter alia*, denied the Motion to Dismiss ("12/27/18 Order"). [Dkt. no. 434.¹] Before the Court is Contrades's motion for reconsideration of the 12/27/18 Order ("Motion for Reconsideration"), filed on January 10, 2019. [Dkt. no. 443.] Plaintiff Mark N. Begley ("Plaintiff") filed his memorandum in

¹ The 12/27/18 Order is also available at 2018 WL 6816045.

opposition on January 24, 2019, and Contrades filed his reply on February 6, 2019. [Dkt. nos. 448, 460.] The Court has considered the Motion for Reconsideration as a non-hearing matter pursuant to Rule LR7.2(e) of the Local Rules of Practice for the United States District Court for the District of Hawaii ("Local Rules"). Contrades's Motion for Reconsideration is hereby denied for the reasons set forth below.

BACKGROUND

The relevant factual and procedural background of this case is set forth in the 12/27/18 Order, which denied Contrades's Motion to Dismiss in its entirety. Plaintiff's claims against Contrades are: aiding and abetting, inciting, compelling, or coercing retaliation, under Haw. Rev. Stat. Chapter 368 and § 378-2(a)(3) ("Count II"); and intentional infliction of emotional distress ("IIED" and "Count IV"). [Third Amended Complaint, filed 8/31/18 (dkt. no. 349), at ¶¶ 133-36, 142-44.] The denial of Contrades's Motion to Dismiss was based on numerous rulings, only one of which is at issue in the Motion for Reconsideration. This Court ruled that, as to Count II and Count IV, the Third Amended Complaint's factual allegations - in particular paragraphs 122.f, r, t, v, w, x - stated a plausible basis to support a finding that Contrades was not entitled to qualified immunity/conditional privilege because

Contrades acted with malice. 12/27/18 Order, 2018 WL 6816045, at *4-6.

In the Motion for Reconsideration, Contrades argues reconsideration is necessary because: 1) the Third Amended Complaint does not allege Contrades acted with a state of mind or an intent that rose to the level of malice; and 2) Contrades's email communication described in the cited portions of paragraph 122 cannot support a finding of malice because Contrades's actions related to those emails were motivated by a proper purpose.

DISCUSSION

Contrades brings his Motion for Reconsideration pursuant to Local Rule 60.1(c), which states: "Motions for reconsideration of interlocutory orders may be brought only upon the following grounds . . . (c) Manifest error of law or fact." This Court has previously stated a motion for reconsideration

"must accomplish two goals. First, a motion for reconsideration must demonstrate reasons why the court should reconsider its prior decision. Second, a motion for reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision." See Davis v. Abercrombie, Civil No. 11-00144 LEK-BMK, 2014 WL 2468348, at *2 (D. Hawaii June 2, 2014) (citation and internal quotation marks omitted). . . . "Mere disagreement with a previous order is an insufficient basis for reconsideration." Davis, 2014 WL 2468348, at *3 n.4 (citations and internal quotation marks omitted).

Heu v. Waldorf=Astoria Mgmt. LLC, CIVIL 17-00365 LEK-RLP, 2018 WL 2011905, at *1 (D. Hawai'i Apr. 30, 2018) (alteration in Heu) (some citations omitted).

The arguments Contrades makes in the Motion for Reconsideration - that Plaintiff failed to plead sufficient factual allegations regarding malice and that Contrades's actions had a proper purpose - were raised in connection with the Motion to Dismiss and considered by this Court. See, e.g., Mem. in Supp. of Motion to Dismiss at 12 ("There is nothing in the Third Amended Complaint to indicate that Contrades' actions were not within the parameters of his duties as Deputy Chief."); id. at 24-25 (arguing Plaintiff "cannot, as a matter of law, state any viable claim against Contrades that demonstrate [sic] malice that resulted in an adverse employment action").

Contrades merely disagrees with this Court's analysis of the factual allegations in the Third Amended Complaint and with this Court's conclusions regarding the legal issues presented in the Motion to Dismiss. Contrades's disagreement does not constitute a ground for reconsideration of the 12/27/18 Order. See Davis, 2014 WL 2468348, at *3 n.4. Further, to the extent that Contrades argues other evidence shows he did not act with malice and/or his actions had a legitimate purpose, nothing in the 12/27/18 Order prevents him from revisiting the qualified immunity/conditional privilege issue in a motion for summary

judgment and/or at trial. Contrades has failed to present any ground that warrants reconsideration of the 12/27/18 Order.

CONCLUSION

On the basis of the foregoing, Contrades's January 10, 2019 Motion for Reconsideration Regarding Order Denying Defendant Michael Contrades' Motion to Dismiss Plaintiff's Third Amended Complaint Filed Herein on August 31, 2018 is HEREBY DENIED.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAI'I, March 7, 2019.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

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